

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 883 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
KHAMBHALIYA MUNICIPALITY

Versus

STATE OF GUJARAT  
-----

Appearance:

MR PV HATHI for Petitioner  
MS MANISHA LAVKUMAR for Respondents  
-----

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/06/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties. The dispute in this case is between Khambhaliya Municipality and the State of Gujarat and its Officers. The dispute pertains to the entitlement of the

petitioner-municipality to receive water from Ghee Dam as per its requirement and petitioner-municipality is not required to pay any reservation/preservation charges as demanded by the respondent. This petition was placed in Court for preliminary hearing on 11/2/1991. On this date, notice was issued to the respondents, returnable on 7th March, 1991 and ad interim relief in terms of para-14D has also been granted. On 14th March, 1991, the matter was admitted and interim relief was ordered to continue on condition that the petitioner-municipality deposits an amount of Rs.99,500/- by installments of Rs.10,000/every week.

2. Shri Hathi, learned counsel for the petitioner, submits that the order dated 14th March, 1991 was carried in L.P.A, registered as L.P.A. No. 93 of 1991. This L.P.A. was decided on 15th March, 1993 and the Order dated 14th March, 1991 was modified to certain extent. However, the learned counsel for the parties are in agreement that the Order dated 14th March, 1991, as modified by the Division Bench in L.P.A. No.93 of 1991 decided on 15th March, 1993, continues till day.

3. After decision of the Apex Court in the case of ONGC V/s. Collector, Central Excise JT 1991 (4) Page 158, it is not in the larger interest of the petitioner as well as respondents to bring this litigation directly in the Court. It results unnecessarily burdening the work of the Courts which are already facing the problems how to reduce the heavy load of the work. Secondly, to spend the peoples money in the litigation, by the Municipality or State of Gujarat or its functionaries and officers, is not in the larger interest of the people. This money which is spent for this litigation can better be utilised or put to use for the development of the country so as to ensure more and more facilities, amenities and services to the citizens. It is unfortunate that though very specifically put to the counsel for the respondent, she is unable to say whether a High Power Committee, as per the guideline, as given out in the case of ONGC V/s. Collector of Central Excise (supra), has been constituted by the State of Gujarat or not. Earlier also, in many of the cases of this category, the Court has given direction to the State of Gujarat through its Chief Secretary for the constitution of a High Power Committee to sort out the disputes amongst this class of litigants and only on its certification, either party to the dispute may be permitted to take the matter to the Court. What the State of Gujarat did in those matter is not made known to the Court till date. Be that as it may. The State of

Gujarat and its functionaries and officers may not take care of all these important aspects which relate to the public interest, but this Court will not permit litigation to the Court directly between the litigants of the category to which the litigants of this petition belong.

4. This Special Civil Application is disposed of in terms that for the grievance made in this petition, the petitioner is free to file a detail representation duly supported by necessary documentary evidence, if it is available, to the Chief Secretary of the State of Gujarat. The Chief Secretary on receiving of this representation from the petitioner shall constitute a High Power Committee under its chairmanship with other 3 members not below the rank of the Secretary. This Committee, so constituted, shall decide the representation of the petitioner after hearing the representative of the concerned department and the petitioner within a period of two months. The committee shall pass a reasoned order and the copy of the same may be sent to the parties to litigation. If the Committee fails to sort out the dispute between the petitioner and department of the State of Gujarat for the grievance made in the representation, it is free to certify the matter to be taken to the appropriate Court by the party who is adversely affected by its decision. The interim relief granted on 14th March, 1991 and as modified in L.P.A. No.93 of 1991 decided on 15th March, 1993 shall continue till the decision of the matter by the High Power Committee. Rule and Special Civil Application stand disposed of accordingly with no order as to costs.

(S.K. Keshote, J.)  
(kamlesh)